

## Exhibit F

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF MASSACHUSETTS

3 \* \* \* \* \*  
4 IN RE: \* CA-04-10294-DPW  
5 \*  
6 SONUS NETWORKS, INC. \* CA-04-10359-DPW  
7 \*  
8 \* \* \* \* \*

9 BEFORE THE HONORABLE DOUGLAS P. WOODLOCK

10 UNITED STATES DISTRICT COURT JUDGE

11 HEARING

12 AUGUST 10, 2004

13 APPEARANCES:

14 SOLOMON B. CERA, ESQ., Gold, Bennett, Cera &  
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16 San Francisco, California 94105-2835, on  
17 behalf of Lead Plaintiff Movant and BPI Global  
Asset Management LLP

18 JOHN C. MARTLAND, ESQ., Gilman and Pastor, LLP,  
19 Stonehill Corporate Center, 999 Broadway, Suite  
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21 Michelle Burk, plaintiff in derivative case

22 TRAVIS E. DOWNS, III, ESQ., Lerach, Coughlin,  
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24 San Diego, California 92101, on behalf of  
25 Global Undervalued Securities Master Fund

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behalf of Michael Pisnoy, plaintiff in derivative  
action

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plaintiff in derivative action

1 APPEARANCES (Con'd.)

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3 LLP, Three Bala Plaza East, Suite 400,  
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of the Farhat Group, plaintiff in the securities  
action

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action

8 JEFFREY B. RUDMAN, ESQ., DANIEL W. HALSTON, AND  
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13 Nill, Defendant

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Ahmed, Defendant

21 Courtroom No. 1 - 3rd Floor  
22 1 Courthouse Way  
Boston, Massachusetts 02210  
2:35 P.M. - 2:55 P.M.

23 Pamela R. Owens - Official Court Reporter  
24 John Joseph Moakley District Courthouse  
1 Courthouse Way - Suite 3200  
25 Boston, Massachusetts 02210  
Method of Reporting: Computer-Aided Transcription

1 CA-04-10294-DPW & CA-04-10359-DPW

2 AUGUST 10, 2004

3 THE COURT: Well, I've received the supplemental  
4 submissions of the parties. And I guess I want to just  
5 ask -- is Mr. Cera here?

6 MR. CERA: Yes, Your Honor.

7 THE COURT: Do you have any further response  
8 to the supplemental submission or opposition of Global  
9 Undervalued here?

10 MR. CERA: Well, Your Honor, I don't think  
11 there are any compelling new points in there. Their  
12 primary first point they made were certain words that  
13 appear in the --

14 THE COURT: Well, let me ask you two things:  
15 Number one, the language is somewhat open-textured in  
16 the agreement that you had. There is not a catch-all  
17 phrase. Am I simply going to rely upon -- I guess --  
18 Mr. Sweeney's affidavit to show that you had that  
19 authority? And take it that the authority was delivered  
20 orally, not in writing?

21 MR. CERA: Your Honor, the authority is  
22 reflected in both Mr. Sweeney's affidavit -- that's  
23 correct -- and in Mr. Killeen's affidavit.

24 THE COURT: Right.

25 MR. CERA: In effect, you have the underlying

1 client here coming forward and providing under penalty  
2 of perjury that they support and approve of the actions  
3 of BPI Global in taking this.

4 THE COURT: Yes. That's a little difficult.  
5 I'm really dealing with the question of whether or not  
6 you were the purchaser and had the authority to  
7 purchase. As I said, it seems to be somewhat more  
8 open-textured than the Rentway agreement. But it  
9 provides for their direction under their direction for  
10 you to have that kind of authority. I take it that this  
11 authority was given orally to your client -- is that it --  
12 and there's no other documentation that reflects this?

13 MR. CERA: No, Your Honor. This is the  
14 governing agreement and the authority is, I think,  
15 understood as reflected in the affidavits with respect  
16 to the understanding of complete discretion, complete  
17 ability to vote the shares, support of the action of  
18 seeking the lead plaintiff position, and reliance on the  
19 agreement. In fact, the construction of the agreement,  
20 although there is language that may appear to be broad,  
21 it does say -- it has a qualifying phrase that says  
22 "without limiting the generality of the foregoing."  
23 I think that's the key language. And then it's very  
24 explicit. It's very clear, Your Honor. This is  
25 actually not an unusual agreement in any way between

1       asset manager and an underlying client.

2               THE COURT: That may be so. The question is  
3 whether or not it's adequate for these purposes.

4               MR. CERA: Your Honor, I believe it is.  
5 Because in paragraph 6(a) of the agreement, it's  
6 absolutely crystal clear that BPI Global had full  
7 discretion to purchase in its own determination whatever  
8 stocks it thought were appropriate to purchase.

9               THE COURT: Well, it says -- I just want to  
10 be clear about this. It says "on the instructions or  
11 approval of the manager in respect of each of the  
12 funds."

13              MR. CERA: Your Honor, I can assure you that  
14 that does not mean that if they make a decision, for  
15 example, to purchase Sonus stock, they have to place a  
16 phone call to the client to ask for permission.

17              THE COURT: Why doesn't it mean that? Because  
18 there is an implicit understanding; is that it?

19              MR. CERA: Yes. This is full discretion, Your  
20 Honor. It is full discretion. It is confirmed by both  
21 affidavits. And the agreement --

22              THE COURT: Well, it's confirmed as an  
23 historical matter by both affidavits. I just want to  
24 understand it for purposes of construing this document.

25              MR. CERA: Sure.

1           THE COURT: It is possible that there would be  
2           some other form of direction under the opening paragraph  
3           of (6).

4           MR. CERA: Is it possible?

5           THE COURT: Right.

6           MR. CERA: It's possible, Your Honor.

7           THE COURT: But you're saying that these two  
8           affidavits are sufficient to establish that there wasn't  
9           -- that possibility was not realized here?

10          MR. CERA: Absolutely that is the case.

11          THE COURT: All right. I just want to  
12          understand that.

13          So, from Global Undervalued, is there  
14          anything further?

15          MR. DOWNS: Good afternoon, Your Honor, Travis  
16          Downs, Lerach, Coughlin. Just a few remarks. I think  
17          it is very important that you didn't get a straight  
18          answer or the correct answer to your question is there  
19          oral authority in those declarations of Sweeney and  
20          Kilgun. There is no representation that there is the  
21          attorney of fact. And if there isn't an oral --

22          THE COURT: Well, is there a necessity for  
23          there to an attorney of fact? I look at the second  
24          Rentway decision. And the focus there was really on  
25          whether or not the advisor was the purchaser. And if

1 the advisor is the purchaser, it's got standing, right?

2 MR. DOWNS: In Rentway, you did have the  
3 attorney-in-fact language. And in the second case of  
4 Rentway, it was salvaged by the catch-all language  
5 that you referred to.

6 THE COURT: Well, it wasn't salvaged so much.  
7 It was referenced. But the question that the Judge  
8 focused on was whether or not they were, in fact,  
9 purchasers. That's what he was talking about in -- what  
10 is it, 136 F.2d -- and that's what he focused on in 216.  
11 And he found that the Judge in Turkcel just didn't  
12 get it quite right.

13 MR. DOWNS: Correct. Rentway is not the  
14 only decision. In the context of Rentway, in the  
15 background of that, you have several other cases such as  
16 Smith v. Suprema, Weinberger v. Atlas, and the  
17 others that we've cited in our brief that all recognize  
18 that you need to have complete and vested discretion and  
19 the attorney-in-fact language. That was no surprise  
20 when BPI entered this case. That was what the law was,  
21 and they chose to pursue a different path. And, yet,  
22 initially they didn't make the showing that was  
23 required. Thankfully, we now have the investment  
24 agreement itself. And that agreement in paragraph (6)  
25 does indicate or it can be read to indicate that you do



1 not have complete discretion and that they serve at the  
2 pleasure of the client.

3 There is some other language that we didn't  
4 cite, but is also in the agreement that I think makes  
5 very clear that these guys don't have the appropriate  
6 authority to sue. For example, if you would go to page  
7 15 and look at paragraph (33) of the agreement which  
8 deals with the nature of the agreement, it talks about  
9 it specifically. "This agreement is intended to be  
10 and shall not be treated as anything other than an  
11 investment or advisement agreement regarding the  
12 provisions of investment advisory services."

13 THE COURT: I can see why you didn't cite  
14 that.

15 MR. DOWNS: It's entirely silent as to whether  
16 or not --

17 THE COURT: Right. It's not relelvent.

18 MR. DOWNS: Well, it is relevant to the  
19 question of whether or not you have the authority to  
20 sue.

21 THE COURT: No. It's relevant to the question  
22 of whether or not they're constituted as a party or as a  
23 partner or agent.

24 MR. DOWNS: Well, in fact -- and you could  
25 read that provision to make sure that you can imply in

1       this agreement that they are an attorney-in-fact. This  
2       agreement is written much more tightly than the Rentway  
3       agreement was that allowed you to read in to rights  
4       that may not exist on the facts. If the agreement  
5       is ambiguous, you need to construe it against the  
6       proponent. And if it raises a question as to --

7               THE COURT: What? If it's ambiguous, I read  
8       it against --

9               MR. DOWNS: It is their agreement.

10              THE COURT: Is it a contra preferentem?

11              MR. DOWNS: I'm sorry?

12              THE COURT: There's a contra preferentem  
13       principle involved in the construction of this in the  
14       context of whether or not somebody gets to be a class  
15       representative.

16              MR. DOWNS: At a level, you have to interpret  
17       this contract. And I would suggest that it should be  
18       read or interpreted as drafted and if there is ambiguity  
19       as to a term of provision, that is construed against the  
20       drafter. But we've said essentially all that we meant  
21       to say in our papers. We still do not believe on the  
22       fourth or fifth attempt now that they have been able to  
23       provide satisfactory evidence that they are in control  
24       of -- they have authority to represent their clients.  
25       And in fact, I think it's interesting that when they

1 moved, they moved on behalf of 11 clients. Nine of them  
2 had been jettisoned. Where did they go? Did they know  
3 they were in the case? Do they know that they're out of  
4 the case? All we have now is a dissolving group which  
5 is another way of saying lawyer-driven litigation, which  
6 is what Congress meant to prevail or prevent when it  
7 passed the PLSRA. We are down from eleven to two  
8 people. And the two people that they did give you --

9 THE COURT: And the two people have more  
10 assets than anybody else, the two entities do.

11 MR. DOWNS: They only have more assets if the  
12 Court finds that they have authority to sue. Otherwise,  
13 those lawsuits belong to their clients. Their clients  
14 have not moved. They don't have standing. They cannot  
15 go forward.

16 THE COURT: So, what am I supposed to do with  
17 Mr. Killeen's affidavit?

18 MR. DOWNS: The affidavits don't get you  
19 there, Your Honor. They don't purport to look at the  
20 language. There is nothing in those affidavits that say  
21 "look, paragraph (6)" -- it says, "Look, you can only  
22 after instruction and approval" -- really, what we meant  
23 to say was that "you have complete discretion and  
24 authority to sue for us." There is nothing in that in  
25 the affidavit.

1           THE COURT: CR Mutual Funds, Incorporated,  
2           on behalf, among others of BPI Global Equity Fund and  
3           BPI American Equity Fund fully supports BPI Global's  
4           effort to be appointed lead counsel and agrees to be  
5           bound by whatever result is ultimately reached in this  
6           litigation.

7           MR. DOWNS: And we dealt with that in our  
8           brief in the footnote. Expressions of support,  
9           endorsement, cheerleading --

10          THE COURT: No. That's not an expression of  
11          support or cheerleading. That's simply that the  
12          governing controlling entity --

13          MR. DOWNS: Well, that's not the agreement,  
14          Your Honor. The agreement is what dictates the nature  
15          of the relationship.

16          THE COURT: Okay. I think I have it. Thank  
17          you.

18          So, I am going to appoint BP Global Asset  
19          Management as the lead plaintiff in this case. Having  
20          reviewed these additional materials, which seem to me to  
21          indicate that it is properly to be understood as a  
22          purchaser and a purchaser with the largest financial  
23          interest here. Furthermore, I have evaluated and had an  
24          opportunity to review more carefully the qualifications  
25          of its approved lead plaintiff's counsel, the Gold,

1 Bennett firm, and particularly Mr. Cera. And I'm  
2 satisfied that they will provide the kind of adequacy of  
3 representation that is contemplated for these purposes.

4 And, so, for those reasons, I will appoint BP  
5 Global Asset Management LLP as lead plaintiff, the firm  
6 of Gold, Bennett, Sidener, LLP, as lead plaintiff's  
7 counsel. In that connection, Mr. Cera, do you have  
8 liaison counsel and what are you doing about that?

9 MR. CERA: No, Your Honor. We do not have  
10 liaison counsel. We have associated with a firm from  
11 Western Massachusetts. But I'd like to proffer a  
12 suggestion in that regard, that since we're doing all of  
13 this by electronic filing, and we obviously can travel  
14 to the court when necessary for appearances, I question  
15 whether there really is a need for an additional liaison  
16 counsel, although I'm happy to engage one, but I'm not  
17 sure it's necessary.

18 THE COURT: Well, is there something -- do the  
19 defendants have any particular view? I mean, it doesn't  
20 strike me as it's necessary.

21 MR. RUDMAN: We're agnostic on the point, Your  
22 Honor.

23 THE COURT: Okay. So I'll leave it at that  
24 and we'll consider whether or not we have a need for it  
25 at some further point. But I'm not sure that there is

1 any need that's yet been shown regarding that.

2 Now, let me understand: Is there still no  
3 decision from Mr. Judge Van Gestel?

4 MR. FEDERMAN: That's correct. There's no  
5 decision.

6 MR. HALSTON: There is no decision as of this  
7 morning, Your Honor. That matter is still under  
8 advisement.

9 THE COURT: Okay. All right.

10 Now, let me then turn to the question of the  
11 derivative cases. I've had more of an opportunity to  
12 reflect on this as well. And I'm of the view that  
13 Schubert & Reed should be appointed as the sole lead  
14 derivative counsel. And the question is the necessity  
15 for liaison counsel here. Does someone from Schubert &  
16 Reed want to speak to that?

17 MR. JONCKHEER: Your Honor, Willem Jonckheer,  
18 Schubert & Reed. In terms of liaison counsel, we've  
19 worked very well with Gilman & Pastor over several  
20 years. And we do believe that --

21 THE COURT: What do you need from them?

22 MR. JONCKHEER: Well, mostly the filing of  
23 documents. I understand there is E-filing in the Court.  
24 However, I also understand that from time to time,  
25 documents need to be served or rather filed in paper

1 form. Also, they're very knowledgeable regarding the  
2 Boston court and we would like to retain them as liaison  
3 counsel and move forward.

4 THE COURT: Well, I'm skeptical about the use  
5 of liaison counsel. I just am concerned about running  
6 the bills up here. We do have -- and, in fact, in this  
7 session, I require -- electronic filing in all cases.  
8 From time to time, things have to be filed by paper --

9 MR. JONCKHEER: Right.

10 THE COURT: -- but that's not a particular  
11 burden. You know, purported knowledge of the Court,  
12 you're in Federal Court and this is a nationwide  
13 practice here.

14 MR. JONCKHEER: Yes.

15 THE COURT: I'll permit liaison counsel, but  
16 I'm not going to be particularly intrigued by extensive  
17 billing unless there's some particular reason for doing  
18 that.

19 MR. JONCKHEER: Understood, Your Honor.

20 THE COURT: And that's not in any way to  
21 denigrate Gilman & Pastor. It's simply I don't want to  
22 pile up counsel fees in the case. I share Mr. Cera's  
23 view generally on that. So, with that reflection then,  
24 I'll put you on as having Gilman & Pastor as your  
25 liaison counsel here.

1 MR. JONCKHEER: Thank you, Your Honor.

2 THE COURT: Now, in terms of schedule, one of  
3 the things that I thought you brought to the table  
4 -- I wasn't particularly impressed one way or the other  
5 -- was the question of stay during the pendency of the  
6 consideration by Judge Van Gestel of the case in the  
7 Superior Court. Are you now pressing for some sort of  
8 discovery to go forward before we get beyond the stay  
9 with Judge Van Gestel?

10 MR. JONCKHEER: Not at the moment. I  
11 understand from the previous conference, that Your Honor  
12 did agree to stay the matter pending a decision from  
13 that court. As soon as a decision is made, we will move  
14 to lift the stay depending on the circumstances. That  
15 will be fine.

16 THE COURT: Well, what do you want to do for  
17 purposes of scheduling? This is for you, it's for Mr.  
18 Cera, and obviously for defense counsel. How do you  
19 want to handle this? I mean, I just want to be ready to  
20 get going if it's necessary.

21 MR. CERA: Your Honor, I can't speak to the  
22 derivative case, but we had a proposal that we had  
23 submitted in a joint status report in connection with  
24 the prior hearing where we would have the lead  
25 plaintiff, whoever it was, within 60 days from the date



1 of the appointment to submit a consolidated complaint  
2 and then I think there was 45 days for lead defendant to  
3 respond. I think that schedule probably works for the  
4 securities class action case.

5 THE COURT: Is that sufficient for you?

6 MR. HALSTON: Yes, it is.

7 THE COURT: It may be that, for whatever  
8 reason, Judge Van Gestel just doesn't get to the  
9 resolution of it. But then that will be probably six  
10 months under the present time frame. And that seems not  
11 unreasonable.

12 MR. HALSTON: Are you addressing both the  
13 securities and the derivative actions, Your Honor?

14 THE COURT: Yes, I think so. I don't see any  
15 reason why it shouldn't be done in that fashion.

16 MR. JONCKHEER: I agree, Your Honor. In the  
17 derivative case as well, a consolidated complaint will  
18 need to be filed.

19 THE COURT: Okay. So let's use the 60-day  
20 period from today with 45 days to respond. Will that do  
21 it? And then I'm loath to do any other scheduling until  
22 -- because to some degree, as I've indicated, I'm  
23 interested in what Judge Van Gestel has to say.

24 MR. CERA: I think the only other element in  
25 the agreement we had was that once they submit, assuming

1       it's a motion to dismiss, we would have 45 days, I  
2       think, to --

3               MR. HALSTON: And we've built in our reply  
4       period to that.

5               THE COURT: Yes. Let's just -- I'll look  
6       and see once I get the responsive pleading from the  
7       defendants here.

8               MR. HALSTON: Very well.

9               THE COURT: And maybe the way to deal with it  
10      at that point is make a proposal when you file the  
11      responsive pleading that takes into consideration  
12      whether or not there has been a resolution in the  
13      Superior Court case or not and why I should get to it in  
14      that time period. I'd be inclined to get to it or  
15      require a briefing at that point even if there hasn't  
16      been a resolution in the Superior Court case.

17              MR. HALSTON: Fine, Your Honor.

18              THE COURT: Okay. Now, is there anything else  
19      that we need to take up?

20              MR. CERA: No.

21              THE COURT: Okay. Thank you very much.  
22      We'll be in recess.

23                              RECESSED AT 2:55 P.M.

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C E R T I F I C A T E

I, PAMELA R. OWENS, Official Court Reporter,  
U. S. District Court, do hereby certify that the  
foregoing is a true and correct transcription of the  
proceedings taken down by me in machine shorthand and  
transcribed by same.

Pamela R. Owens 8/19/04